

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHARLES LEONARD FLOYD, JR.,)	
)	
Plaintiff,)	C05-1397-RSM
)	(CR95-777-RSM)
v.)	
)	ORDER TRANSFERRING
UNITED STATES OF AMERICA,)	PETITIONER'S MOTION
)	TO NINTH CIRCUIT
Respondent.)	
_____)	

The Court, having reviewed Petitioner's motion for relief from judgment (Dkt.), the Report and Recommendation of the Honorable Monica J. Benton, United States Magistrate Judge, any objections thereto, and the remaining record, does hereby find and ORDER:

(1) The Court adopts the Report and Recommendation.

(2) This case is hereby TRANSFERRED to the Ninth Circuit Court of Appeals pursuant to 28 U.S.C. § 1631 and Circuit Rule 22-3(a). Petitioner is advised that this transfer alone does not constitute compliance with 28 U.S.C. § 2244(b)(3) and Circuit Rule 22-3; he must still file a motion for leave to proceed in the Court of Appeals and make the showing required by § 2244(b). Petitioner is referred to this statute and Circuit Rule 22-3 for further information.

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(3) The Clerk is directed to close this case and transfer all original documents to the Ninth Circuit Court of Appeals. The Clerk shall, however, retain a copy of the motion and of this Order in the file. The Clerk is directed to send a copy of this Order to Petitioner and to Judge Benton.

DATED this 20th day of September, 2005.

/s/ James L. Robart
JUDGE JAMES L ROBART for
JUDGE RICARDO S. MARTINEZ
United States District Judge